

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7544

Investigation into Compliance of Entergy)
Nuclear Vermont Yankee, LLC, and Entergy)
Nuclear Operations, Inc., with Surveillance and)
Reporting Requirements for Dry-Fuel-Storage)
Facility at Vermont Yankee Nuclear Power)
Station)

Order entered: 8/7/2009

**ORDER OPENING INVESTIGATION
AND NOTICE OF PREHEARING CONFERENCE**

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") commences an investigation, pursuant to 30 V.S.A. § 30, into the compliance of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., (collectively, "Entergy VY") with surveillance and reporting requirements for the dry-fuel-storage facility at the Vermont Yankee Nuclear Power Station ("Vermont Yankee") in Vernon, Vermont. In this investigation, the Board will also determine whether penalties should be imposed for any non-compliance with those requirements.

II. BACKGROUND

In Docket 7082, on April 26, 2006, the Board issued a Certificate of Public Good ("CPG") authorizing Entergy VY to construct a dry-fuel-storage facility at Vermont Yankee. The dry-fuel-storage facility is used to store spent nuclear fuel generated at Vermont Yankee, supplementing the spent-fuel pool at the station.

The CPG issued in Docket 7082 for the dry-fuel-storage facility is subject to a number of conditions. The first condition of the CPG provides that:

1. Entergy VY shall comply with the terms and conditions of the Memorandum of Understanding between Entergy VY and the Department of Public Service dated June 21, 2005.¹

Paragraph 5 of that June 21, 2005, Memorandum of Understanding ("Docket 7082 MOU") provides:

5. Monitoring. The Company will monitor the temperature on each cask located on the DFS pad continuously using an electronic-monitoring system contemplated by the Company's current DE-system design. Monthly the Company will manually conduct radiation surveillance of each such cask. The DPS and the Company, in consultation with the Department of Health, will develop a protocol for reporting the results of such monitoring and surveillance to the DPS and the Department of Health.

On July 31, 2009, Entergy VY filed a letter with the Board reporting that it had issued a "Condition Report" with respect to Paragraph 5 of the Docket 7082 MOU. In its July 31 letter, Entergy VY reports that:

On June 23, 2009, Entergy VY determined that it had not initiated monthly radiation surveillances of the five casks following the initial radiation surveillance conducted at the time each of the five casks were loaded. Entergy VY also determined that a protocol for reporting the results of temperature monitoring and radiation surveillance to the DPS and Department of Health (DOH) had not been developed.

Entergy VY's July 31, 2009, filing raises significant questions about Entergy VY's compliance with the requirements of the Final Order and CPG issued in Docket 7082, specifically its compliance with Paragraph 5 of the Docket 7082 MOU as incorporated into the conditions of the Final Order and CPG.² Therefore, today, we open an investigation into Entergy VY's compliance with Condition 1 of the CPG and Condition 2 of the Final Order in Docket 7082, and in particular Entergy VY's compliance with the surveillance and reporting requirements contained in Paragraph 5 of the Docket 7081 MOU. The investigation will also

1. This same condition is included as Condition 2 of the Final Order in Docket 7082, also issued on April 26, 2006.

2. In addition to the Board's own serious concerns about Entergy VY's compliance with those requirements, a number of public comments have been filed expressing concern about Entergy's apparent failure to abide by the terms of the Order and CPG from Docket 7082.

consider what penalties, if any, should be imposed on Entergy VY for any violation of those requirements.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to 30 V.S.A. §§ 30, 203, and 209, an investigation is commenced regarding the compliance of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., with Condition 1 of the Certificate of Public Good and Condition 2 of Final Order in Docket 7082.

2. Pursuant to 30 V.S.A. Section 10, the Public Service Board will hold a prehearing conference in this matter on Wednesday, August 12, 2009, commencing at 1:30 P.M. at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont.

Dated at Montpelier, Vermont, this 7th day of August, 2009.

<u>s/James Volz</u>)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	
)	
)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 7, 2009

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)